

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-2** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitations "the lower surface" (line 24 of claim 1) and "the gingival and occlusal ends" (line 42 of claim 1), which lack antecedent bases.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Orikasa (2003/0039938 A1) in view of Hanson (4248588).**

A self-ligating bracket system 10 (Figs. 1-2) comprised of: a platform 11 and a closure element 20. Platform 11 has a dental surface (bottom surface of 11) and a labial surface (top surface of 11) having a first protruding element 14 and a second protruding element 12. The first protruding element 14 comprising a retention clip (central foot 18A) of a wedge shape which protrudes from an upper central surface of said labial surface. The second protruding element 12 comprising occlusal flange 15 being centrically joined to the lower surface of said labial

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surface, forming a pair of guides 15A thereon and containing an arch groove 13. The closure element 20 comprise a locking cap 21A, a hooking notch 21 and two lateral runners 24, whose longitudinal section has a long polygonal shape that has two slightly wedged areas on the gingival and occlusal ends, each lateral runner having a joining notch (note notch formed at the base of bar 22).

Orikasa discloses the invention substantially as claimed except for the horizontal cementing slots on the platform's dental surface. Hanson discloses a self-ligating bracket comprising a platform 26 having horizontal cementing slots 30 on its dental surface to facilitate adherence of the cement (Fig. 3; column 3 lines 21-25). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Orikasa by including the cementing slots to the platform's dental surface in order to facilitate adherence of the cement or adhesive, so that an effective and sturdy attachment to the tooth can be achieved as explicitly taught by Hanson.

As to claim 2, note that each joining notch 22 of the runners 24 comprises horizontal retention bar welded thereon (best shown as 220 in Figure 10A-10C)

Response to Arguments

5. Applicant's arguments filed 07/14/2008 have been considered but are not persuasive and/or moot in view of the new ground(s) of rejection.

Applicant argued that (1) Applicant's protruding elements are two distinct elements as opposed to Orikas's single element, (2) Applicant's joining notch enabling the lateral runners to accommodate a cylindrical retention bar, and (3) Orikasa's support bar is located on a superior part of the clip in opposition to Applicant's inferior part (Amendment 07/14/2008: pages 8-10). Note that the features/limitations upon which Applicant relies (i.e. the above underlined features) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

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specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments regarding Hanson's slots are not horizontally continuous throughout the base (Amendment 07/14/2008, page 10) are also not persuasive. Note that the rejected claim(s) do not recite "continuous throughout the base". The examiner maintains that Hanson discloses a platform 26 having a dental surface consisting of horizontal cementing slots 30 as claimed.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAO D. MAI whose telephone number is (571)270-3002. The examiner can normally be reached on Monday-Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. D. M./
Examiner, Art Unit 3732

**/John J Wilson/
Primary Examiner, Art Unit 3732**